IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JAIPUR BENCH, JAIPUR

::JUDGMENT::

MRS.VIMLA KAPUR VS. THE UNION OF INDIA AND ANR.

D.B.CIVIL SPECIAL APPEAL (W) NO.985/2006 UNDER SECTION 18 OF THE RAJASTHAN HIGH COURT ORDINANCE, 1949 READ WITH ARTICLE 225 OF THE CONSTITUTION OF INDIA AGAINST THE JUDGMENT DATED 20.3.2006.

DATE OF JUDGMENT :::: 18.1.2007

PRESENT

HON'BLE JUSTICE MRS.GYAN SUDHA MISRA
HON'BLE JUSTICE MR.K.C.SHARMA

Mr. Hans Kumar Sharma for the appellant.

BY THE COURT:

This appeal has been preferred against the order of the learned Single Judge dated 20.3.2006 by which the writ petition filed by the petitioner/appellant herein was dismissed on the ground that the petitioner had earlier filed a writ petition before the Principal Seat at Jodhpur claiming the same relief. The writ petition admittedly was dismissed before the Principal Seat at Jodhpur against which no appeal had been preferred. The petitioner/appellant herein thereafter a delay of 112 days, filed another writ petition before the Jaipur Bench of this High Court exactly on the same set

of fact claiming the same relief but the learned Single Judge dismissed the writ petition as the petitioner/ appellant had already availed the remedy at Jodhpur which was disallowed.

Assailing the order of the learned Single Judge it was submitted that the relief sought in the writ petition at Jodhpur before the Single Judge was different and the writ petition before this Court is altogether different. But we are not satisfied on this count as in both the petitions, the petitioner/appellant had challenged the demand notice for realisation of the amount after her contract had been cancelled.

Since the subject matter of dispute in both the writ petitions and the relief claimed in both the matters are essentially one and the same, we did not permit the counsel for the appellant to address us on the merit of the matter as it was not open for this Court to entertain a second writ petition for the same relief on the same set of facts. If the petitioner has any reason to claim relief on the basis that identical relief has been granted to some other similarly situated persons, it is

for her to move the Principal Seat of this High Court at Jodhpur by way of an appeal even if that be time barred, but in so far as this appeal at Jaipur Bench is concerned, which is directed against the order of the learned Single Judge dismissing the matter on account of non-maintainability of a second writ petition at Jaipur Bench on the same set of fact claiming similar relief which had been earlier raised at Jodhpur, obviously is barred on the principle of constructive res judicata. The learned Single Judge thus was perfectly right in dismissing the writ petition and hence we see no reason to entertain this appeal. The appeal therefore stands dismissed at the admission stage itself on merit.

(K.C.SHARMA)J. (GYAN SUDHA MISRA)J.

PCG